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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,234	10/29/1999	RAINER WOLFGANG LIENHART	042390.P7333	6961

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EXAMINER

YENKE, BRIAN P

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 06/18/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

7

Advisory Action

Application No.

09/430,234

Applicant(s)

LIENHART ET AL.

Examiner

BRIAN P. YENKE

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.


Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 10. Other: The applicant states that Exhibit B of the Lienhart Declaration is a printout of the source code that demonstrates an actual reduction to practice of the invention claimed by applicant prior to Grandin's effective date of May 20, 1999. Applicant also states that although Exhibit B at page 1 includes a comment line that states "This file generates synthetic sinusoids in order to analyze the characteristics of a microphone," does not negate the fact that functions within the source code of Exhibit B establish that the applicant's had possession of the invention. The applicant states some functions include; "int cancelNoise", "int ConvolveAudioBuffer", "int writeTestWaveFile", "bool generateStatistics" and many additional functions. The examiner disagrees, Exhibit B does not contain source code to practice the invention as claimed, where a video signal is received, receiving a first audio signal containing annotations, receiving a second audio signal containing sounds corresponding to the video signal, and generating searchable annotations corresponding to the video and second audio via the first audio signal. In addition to the independent claims, the source code also does not contain; the claimed removing the annotations from the second audio signal, utilizing a least-mean square algorithm, generating a center text title and scrolling text banner both searchable via annotations, and generating a video abstract via the first and second audio signals, the video signal and the searchable annotations. Therefore, the Declaration filed on 27 December 2002 under 37 CFR 1.131 has been considered but is ineffective to overcome the Grandin et al (US 6,378,132) reference.


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